

RESOLUTION NO.: 149 -2010

OF

JUNE 25, 2010

A RESOLUTION AUTHORIZING THE SUBMISSION OF A HOME RULE REQUEST TO THE LEGISLATURE OF THE STATE OF NEW YORK REQUESTING THE ENACTMENT INTO LAW OF SENATE BILL S08367 AND ASSEMBLY BILL A11558 KNOWN AS THE "CITY OF NEWBURGH FISCAL RECOVERY ACT" AUTHORIZING THE CITY OF NEWBURGH TO ISSUE BONDS FOR THE PURPOSE OF LIQUIDATING CERTAIN DEFICITS AND IMPOSING STANDARDS AND REQUIREMENTS AS TO BUDGETARY OPERATIONS AND FISCAL MANAGEMENT DESIGNED TO RESTORE THE CITY OF NEWBURGH TO FISCAL INTEGRITY

WHEREAS, the City of Newburgh is in need of deficit financing; and

WHEREAS, pursuant to Municipal Home Rule Law it is necessary for the New York State Senate and Assembly to respectively enact bills which would authorize such deficit financing; and

WHEREAS, pursuant to Municipal Home Rule Law Section 30 it is necessary and appropriate to send this Home Rule Request asking that the subject legislation be enacted to authorize such deficit financing;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York does hereby authorize the submission of this Home Rule Request to the Senate and Assembly of the State of New York requesting the adoption into law of Bills S08367 and A11558, to authorize deficit financing for the City of Newburgh.

# PROGRAM BILL #302R

## Governor's Program Bill

2010

### Memorandum in Support

AN ACT to authorize the city of Newburgh, in the county of Orange, to issue bonds for the purpose of liquidating certain deficits and imposing standards and requirements as to budgetary operations and fiscal management designed to restore such city to fiscal integrity; and providing for the repeal of such provisions upon expiration thereof

#### Purpose:

This bill would authorize the City of Newburgh ("City") to issue bonds to liquidate certain actual deficits, impose on the City additional fiscal accountability requirements, and provide for the establishment of a Special Debt Service Fund for the City to be held by the Comptroller of the State of New York ("State Comptroller"), in order to restore the City's fiscal integrity and improve its ability to market bonds.

#### Summary of provisions:

Section 1 of the bill would set forth the short title of the act as the City of Newburgh Fiscal Recovery Act ("NFRA").

Section 2 of the bill would set forth legislative findings.

Section 3 of the bill would establish the supremacy of the NFRA relative to any inconsistent general, special or local law.

Section 4 of the bill would set forth definitions for the NFRA.

Section 5 of the bill would authorize the City to issue bonds on or before December 31, 2011 in an aggregate principal amount not to exceed \$15,000,000, for the purpose of liquidating actual deficits in its General Fund, Special Revenue Fund, and Capital Projects Fund existing at the close of its 2010 fiscal year.

Section 6 of the bill would provide that the financing of the deficits described in section 5 of the bill is a purpose of the City for which indebtedness may be incurred, the period of probable usefulness of which would be fixed at 15 years.

Section 7 of the bill would provide that no deficit bonds may be issued unless and until the State Comptroller has first reviewed and confirmed the existence of the deficits described in section 5 of the bill and certified the amount of such deficits.

Section 8 of the bill would provide that deficit bonds may not be issued in an amount exceeding the amount of the deficits certified by the State Comptroller pursuant to section 7 of the bill. Any amount of deficit notes issued in excess of the certified deficit amount would need to be either redeemed or deposited in the Special Debt Service Fund established in section 15 of the bill.

Section 9 of the bill would require the City Comptroller to prepare quarterly reports comparing budgeted revenues and expenditures to actual revenues and expenditures, along with a trial balance of general ledger accounts. Each report would also include actions recommended by the City Manager to resolve any unfavorable budget variance.

Section 10 of the bill would require the State Comptroller to examine the City's proposed budget and make recommendations thereon to the City prior to the adoption of the budget. The City Council would be required to make adjustments to the proposed budget consistent with any such recommendations.

Section 11 of the bill would require the City Manager to prepare, along with the proposed budget, a 3-year financial plan covering the next succeeding fiscal year and the two fiscal years thereafter, which would at a minimum contain: projected employment levels; projected annual expenditures; reserve fund amounts; estimated annual revenues; and the proposed use of one-time revenue sources. In addition, the financial plan would identify actions necessary to achieve and maintain long-term fiscal stability, including, but not limited to, improved management practices, initiatives to minimize or reduce operating expenses, and potential shared services agreements with other municipalities. The City Manager would be required to update the financial plan consistent with the adopted budget and quarterly budget reports.

Section 12 of the bill would require the City Comptroller to notify the State Comptroller at least 15 days prior to the issuance of any bonds or notes or entering into any installment purchase contract, and the State Comptroller may review and make recommendations regarding the affordability to the City of any such proposed issuance or contract.

Section 13 of the bill would authorize the private sale of deficit bonds, any refunding of such deficit bonds, and any other bonds issued by the City on or before December 31, 2012, subject to the approval of the State Comptroller of the terms and conditions of such sales.

Section 14 of the bill would require all proceedings in connection with the issuance of such deficit bonds or deficit notes to be taken in accordance with the provisions of the Local Finance Law ("LFL"); provided, however, that the City's bond resolutions would not be subject to (i) any mandatory or permissive referendum, (ii) LFL § 107.00 with respect to any requirements for a down payment, and (iii) the provisions applicable to municipalities authorized to incur debt to liquidate operating deficits under LFL § 10.10.

Section 15 of the bill would require the City, upon the issuance of any deficit bonds or deficit notes, to establish a Special Debt Service Fund with the State Comptroller for the purpose of paying City debt service due or becoming due in subsequent fiscal years. The State

Comptroller would be authorized to deposit State aid payable to the City and a portion of the City's property tax collections in the Special Debt Service Fund as necessary to ensure sufficient moneys are available to make scheduled debt service payments over the succeeding twelve month period after accounting for the City's receipt of taxes and State aid during such period. As soon as practicable thereafter, the State Comptroller would be required to pay over to the City any remaining amounts of State aid and City property taxes that are not needed to reserve for debt service.

Section 16 of the bill would set forth the State's pledge to the holders of any bonds, notes or other obligations issued by the City during the effective period of the NFRA that the State will not limit, alter or impair the rights vested in the City to fulfill the terms of any agreements made with bondholders pursuant to the NFRA, and would clarify that nothing contained in the NFRA would obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the City or restrict any right of the State to amend, modify, repeal or otherwise alter LFL § 54 or any other provision relating to state aid, taxes or fees.

Section 17 of the bill would set forth the rights of bondholders and the State Comptroller to commence an action in Orange County Supreme Court if the City fails to comply with any provision of this bill.

Section 18 of the bill would set forth a severability clause.

Section 19 of the bill would make it effective immediately, and the NFRA would remain in effect for a 15-year period following the first issuance of deficit bonds or deficit notes pursuant to the NFRA.

**Prior legislative history:**

None.

**Existing law:**

LFL § 10.10 sets forth the uniform deficit financing process for municipalities and school districts that are authorized by a special or general law to incur debt to liquidate operating deficits.

**Statement in support:**

The fiscal condition of the City of Newburgh has severely deteriorated in recent years as a result of serious local economic and demographic challenges, the City's inability to ensure proper financial accounting procedures, improvident budgeting and taxing practices, and significant turnover in positions responsible for the management of city finances. These factors have led to a substantial structural imbalance between revenues and expenditures, with a projected cumulative deficit of approximately one-quarter of the City's budgeted revenues. The ability of the City to regain fiscal stability is impaired by a recent decline in the City's tax base and continuing weakness in the local economy. These circumstances have caused an independent

bond rating service to lower the City's bond rating below investment grade, thereby making the City's ability to access the credit market uncertain.

The combination of actions authorized in this Act is necessary to help the City return to fiscal and economic stability and improve its ability to market bonds. The bill would require enhanced budgetary discipline and stronger oversight of City finances by the State, establish a State-managed debt service fund to ensure required payments to bondholders, and authorize short-term budgetary relief with deficit financing to mitigate the impact on essential City services and property taxes as the City seeks to regain fiscal stability.

**Budget implications:**

The State Comptroller's administrative responsibilities under this Act could be accomplished within existing resources. By authorizing the City to issue deficit bonds, this bill would help the City to restore its fund balance without drastic reductions in essential services and unsustainable increases in City property taxes. The bill's enhanced fiscal oversight of the City and Special Debt Service Fund would improve the City's ability to market future bond and note issues at a lower cost.

**Effective date**

This bill would take effect immediately. The NFRA would remain in effect for a 15-year period following the date of first issuance of deficit bonds or deficit notes pursuant to the NFRA.

Legislative Bill Drafting Commission  
12292-03-0

**PROGRAM BILL #302R**

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*NEWBUCI\*

(Enacts the "city of Newburgh fiscal  
recovery act" to authorize such city  
to issue bonds to liquidate certain  
deficits, and impose certain budget-  
ary requirements)

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Newburgh fiscal recovery act

**AN ACT**

to authorize the city of Newburgh,  
in the county of Orange, to issue  
bonds for the purpose of liquidating  
certain deficits and imposing stand-  
ards and requirements as to budget-  
ary operations and fiscal management  
designed to restore such city to  
fiscal integrity; and providing for  
the repeal of such provisions upon  
expiration thereof

**IN SENATE**

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal

s20 Adams	s03 Foley	s24 Lanza	s37 Oppenheimer	s09 Skelos
s15 Addabbo	s08 Fuschillo	s39 Larkin	s11 Padavan	s14 Smith
s55 Alesi	s22 Golden	s01 LaVella	s21 Parker	s25 Squadron
s48 Aubertine	s47 Griffio	s40 Leibell	s13 Peralta	s58 Stachowski
s42 Bonacic	s06 Hannon	s52 Libous	s30 Perkins	s16 Stawicki
s46 Breslin	s36 Russell-	s45 Little	s61 Ranszenhofer	s35 Stewart-
s59 DeFrancisco	Thompson	s05 Marcellino	s56 Robach	Cousins
s32 Diaz	s10 Huntley	s62 Mariarz	s41 Saland	s60 Thompson
s17 Dilan	s07 Johnson, C.	s43 McDonald	s19 Sampson	s49 Valasky
s29 Duane	s04 Johnson, O.	s18 Montgomery	s23 Savino	s59 Volker
s33 Espada	s34 Klein	s38 Morahan	s31 Schneiderman	s53 Winner
s44 Farley	s26 Krueger	s54 Nozzolio	s28 Serrano	s57 Young
s02 Flanagan	s27 Kruger	s12 Onorato	s51 Seward	

**IN ASSEMBLY**

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a010 Conte	a083 Reastie	a022 Meng	a057 Rosenthal
a001 Alessi	a032 Cook	a028 Revesi	a102 Miller, J.	a118 Russell
a021 Alfano	a142 Corwin	a048 Hiskind	a038 Miller, M.	a012 Saladino
a105 Amedore	a085 Crespo	a018 Hooper	a052 Millman	a113 Sayward
a084 Arcoyo	a107 Crouch	a144 Hoyt	a103 Molinaro	a029 Scarborough
a035 Aubry	a063 Cusick	a050 Myer-Spencer	a015 Montesano	a016 Schimel
a136 Bacalles	a045 Cymbrowitz	a042 Jacobs	a132 Morelle	a140 Schinminger
a099 Ball	a138 DelMonte	a095 Jaffea	a003 Murray	a145 Schroeder
a124 Barclay	a034 DenDekker	a057 Jeffries	a037 Nolan	a122 Scorzafava
a014 Barra	a116 Destito	a131 John	a128 Oaks	a064 Silver
a040 Barron	a081 Dinowitz	a112 Jordan	a069 O'Donnell	a100 Skartados
a082 Benedetto	a114 Duprey	a074 Kavanagh	a137 O'Mara	a093 Spano
a079 Benjamin	a004 Englebright	a065 Kellner	a051 Ortis	a121 Stirpe
a073 Bing	a130 Errigo	a129 Kolb	a150 Parment	a011 Sweeney
a055 Boyland	a072 Espalliat	a135 Koon	a088 Paulin	a110 Tedisco
a008 Boyle	a071 Farrell	a025 Lencman	a141 Peoples-	a002 Thiele
a044 Brennan	a005 Fields	a091 Latimer	Stokes	a061 Titone
a092 Brodsky	a123 Finch	a013 Lavine	a058 Perry	a031 Titus
a046 Brook-Krasny	a007 Fitzpatrick	a050 Lentol	a023 Pheffer	a062 Tobacco
a147 Burling	a143 Gabryszak	a125 Lifton	a068 Powell	a054 Towns
a117 Butler	a090 Galef	a127 Lopez, P.	a087 Pretlow	a115 Townsend
a101 Cahill	a133 Gantt	a053 Lopez, V.	a146 Quinn	a041 Weinstein
a096 Calhoun	a036 Gianaris	a126 Lupardo	a097 Rabbitt	a020 Weisenberg
a043 Camara	a077 Gibson	a111 Magee	a009 Raia	a024 Weprin, D.
a106 Canestrari	a149 Giglio	a120 Magnarelli	a006 Ramos	a070 Wright
a026 Carrozza	a066 Glick	a059 Maisel	a134 Reilich	a094 Zebrowski
a089 Castelli	a108 Gordon	a030 Markey	a109 Reilly	a039
a086 Castro	a075 Gottfried	a027 Mayerscha	a078 Rivera, J.	
a119 Christensen	a098 Gunther	a019 McDonough	a080 Rivera, N.	
a033 Clark	a139 Hawley	a104 McEneny	a076 Rivera, P.	
a047 Colton	a148 Hayes	a017 McKevitt	a056 Robinson	

1) Single House Bill (introduced and printed separately in either or both  
houses). Uni-Bill (introduced simultaneously in both houses and printed as one  
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed  
copies of bill and 4 copies of memorandum in support (single house); or 4 signed  
copies of bill and 8 copies of memorandum in support (uni-bill).

06/24/10

2

12292-03-0

The People of the State of New  
York, represented in Senate and  
Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "city of Newburgh fiscal recovery act".

3 § 2. Legislative findings. The legislature hereby finds and declares  
4 that the fiscal condition of the city of Newburgh has severely deterio-  
5 rated in recent years as a result of serious local economic and demo-  
6 graphic challenges, the city's inability to ensure proper financial  
7 accounting procedures, improvident budgeting and taxing practices, and  
8 significant turnover in positions responsible for the management of city  
9 finances. These factors have led to a substantial structural imbalance  
10 between revenues and expenditures, with a projected cumulative deficit  
11 of approximately one-quarter of the city's budgeted revenues. The abil-  
12 ity of the city to regain fiscal stability is impaired by a recent  
13 decline in the city's tax base and continuing weakness in the local  
14 economy. These circumstances have caused an independent bond rating  
15 service to lower the city's bond rating below investment grade, thereby  
16 making the city's ability to access the credit market uncertain.

17 It is hereby found and declared that the city of Newburgh is in a  
18 state of fiscal crisis, and that a combination of enhanced budgetary  
19 discipline and short-term budgetary relief is necessary to assist the  
20 city in returning to fiscal and economic stability, while ensuring  
21 adequate funding for the provision of essential services.

22 It is hereby acknowledged that a home rule message recommended by the  
23 city manager of the city of Newburgh, approved by the city council and  
24 endorsed by the mayor of the city, requests the enactment of all of the  
25 provisions of this act as necessary and in the public interest to accom-  
26 plish the objective of improving market reception for the necessary sale  
27 of bonds and other obligations of the city by establishing standards and  
28 requirements as to budgetary operations and fiscal management to restore



1 the city to fiscal integrity while retaining the city's right to operate  
2 independently as a municipal corporation of the state of New York.

3 § 3. Exclusivity of act. Based upon the foregoing findings, the legis-  
4 lature through this act hereby imposes on the city certain requirements  
5 as to budgetary operations and fiscal management, including the elimi-  
6 nation of accumulated deficits of the city, and hereby declares that to  
7 the extent the provisions of this act are inconsistent with any general,  
8 special or local law, this act shall apply.

9 § 4. Definitions. As used in this act, the following words and terms  
10 shall have the following meanings respectively, unless the text shall  
11 indicate another or different meaning or intent:

12 (a) "Budget" means a current operating budget of the city prepared or  
13 adopted pursuant to general, special or local law, being the annual  
14 budget and estimate of expenditures to be made during a fiscal year for  
15 the general support and current expenses of the government of the city  
16 to be paid from taxes or assessments or other current revenues of the  
17 city for such year.

18 (b) "City" means the city of Newburgh, in the county of Orange.

19 (c) "City comptroller" means the comptroller of the city.

20 (d) "City council" means the city council of the city.

21 (e) "City manager" means the city manager of the city.

22 (f) "City taxes" means and includes all taxes on real property levied  
23 and assessed by the city, based on valuation thereof and shall not mean  
24 any rent, rate, fee, special assessment or other charge based on benefit  
25 or use.

26 (g) "Collecting officer" means the officer empowered to collect and  
27 receive city taxes.

1 (h) "Deficit bonds" means the bonds authorized to be issued by section  
2 five of this act.

3 (i) "Deficit notes" means bond anticipation notes issued in antic-  
4 ipation of the issuance of deficit bonds.

5 (j) "Financial plan" means the three-year financial plan required by  
6 section eleven of this act.

7 (k) "Fiscal year" means the fiscal year of the city.

8 (l) "Mayor" means the mayor of the city.

9 (m) "Outstanding", when used with respect to obligations of the city  
10 as of any particular date, means all obligations of the city theretofore  
11 issued and thereupon being issued except any obligation theretofore paid  
12 and discharged or for the payment of the principal of and interest on  
13 which money is held by or on behalf of the city, in trust solely and in  
14 all events only for the purpose and sufficient to pay in full the prin-  
15 cipal and redemption premium, if any, of and interest on such obli-  
16 gations.

17 (n) "Special debt service" means, with respect to a fiscal year, the  
18 amounts required for the timely payment of (i) all principal due or  
19 becoming due and payable in said year with respect to any serial bonds,  
20 tax anticipation notes, capital notes or budget notes of the city, and  
21 all principal amortization for said year required by law with respect to  
22 bond anticipation notes or other securities of the city, and not specif-  
23 ically mentioned in paragraph (ii) of this subdivision, (ii) all inter-  
24 est due or becoming due and payable in said year with respect to any  
25 serial bonds, bond anticipation notes, tax anticipation notes, revenue  
26 anticipation notes, capital notes, budget notes or other securities of  
27 the city not specifically mentioned herein, and (iii) all sinking fund

1 contributions required in said year with respect to any sinking fund  
2 bonds.

3 (o) "Special debt service fund" means the fund which is held by the  
4 state comptroller and is described and provided for in section fifteen  
5 of this act.

6 (p) "State aid" means all aid and incentives for municipalities pursu-  
7 ant to section 54 of the state finance law, any successor type of aid  
8 and any new aid appropriated by the state as local government assistance  
9 for the benefit of the city.

10 (q) "State comptroller" means the comptroller of the state, pursuant  
11 to his or her authority to supervise the accounts of any political  
12 subdivision of the state.

13 Unless the context specifically provides otherwise, any terms used in  
14 this act such as revenues, expenditures or expenses shall be construed  
15 as such term is construed under applicable accounting principles incor-  
16 porated in the uniform system of accounts prescribed by the state comp-  
17 troller.

18 § 5. Deficit bond and deficit note issuance authorization. The city is  
19 hereby authorized to issue bonds, subject to the provisions of this act,  
20 on or before December 31, 2011, in an aggregate principal amount not to  
21 exceed fifteen million dollars (\$15,000,000) (exclusive of the costs and  
22 expenses incidental to the issuance of the bonds authorized to be issued  
23 by this section) for the specific object or purpose of liquidating actu-  
24 al deficits in its general fund, the special revenue fund, and the capi-  
25 tal projects fund existing at the close of its 2010 fiscal year. In  
26 anticipation of the issuance of such bonds, deficit notes are hereby  
27 authorized to be issued.

1     § 6. Period of probable usefulness established. It is hereby deter-  
2 mined that the financing of the deficits described in section five of  
3 this act is an object or purpose of the city for which indebtedness may  
4 be incurred, the period of probable usefulness of which is hereby deter-  
5 mined to be fifteen years, computed from the date of such deficit bonds  
6 or from the date of the first deficit notes, whichever date is earlier.  
7 Such deficit bonds and deficit notes shall be general obligations of the  
8 city, to which the faith and credit of the city is pledged, and the city  
9 shall make an annual appropriation sufficient to pay the principal of  
10 and interest on such obligations as the same shall become due.

11     § 7. Certification of deficit. No deficit bonds may be issued unless  
12 and until the state comptroller shall first review and confirm the  
13 existence of the deficits described in section five of this act, as well  
14 as certify the amount of the deficits. As soon as practicable after the  
15 effective date of this act, but in no event prior to the close of the  
16 city's 2010 fiscal year, the city shall prepare a report detailing the  
17 amount and cause of the deficit and submit to the state comptroller such  
18 report, together with the independent audit report for its last  
19 completed fiscal year and such other information as the state comp-  
20 troller may deem necessary. Within thirty days after receiving all  
21 necessary reports and information, the state comptroller shall:

- 22     (a) perform such reviews as may be necessary;
- 23     (b) confirm the existence and certify the amount of the deficits; and
- 24     (c) provide notification to the city manager, the city comptroller,  
25 the mayor and the city council as to the existence and amount of any  
26 such deficits.

27     § 8. Limit on amount of deficit bonds. Deficit bonds may not be issued  
28 in an amount exceeding the amount of such deficits as certified by the

1 state comptroller. If the city issues deficit notes prior to a determi-  
2 nation by the state comptroller pursuant to section seven of this act in  
3 an amount in excess of the amount of such deficits as confirmed by the  
4 state comptroller, the city shall, from funds other than proceeds of  
5 bonds or bond anticipation notes, either redeem such deficit notes in  
6 the amount by which the amount of such deficit notes exceeds the amount  
7 of such deficits as confirmed by the state comptroller or deposit a sum  
8 equal to the amount by which such deficit notes exceed the amount of  
9 such deficits as confirmed by the state comptroller into the special  
10 debt service fund.

11 § 9. Quarterly budget reports and trial balances. For each fiscal year  
12 during the effective period of this act, the city comptroller shall  
13 monitor budgets of the city and, for each budget, prepare a quarterly  
14 report of summarized budget data depicting overall trends of actual  
15 revenues and budget expenditures for the entire budget rather than indi-  
16 vidual line items. Such reports shall compare revenue estimates and  
17 appropriations as set forth in such budget with the actual revenues and  
18 expenditures made to date. All quarterly reports shall be accompanied by  
19 a recommendation by the city manager setting forth any remedial action  
20 necessary to resolve any unfavorable budget variance including the over-  
21 estimation of revenues and the underestimation of appropriations, and  
22 shall be completed within thirty days of the end of each quarter. The  
23 city comptroller shall also prepare, as part of such report, a quarterly  
24 trial balance of general ledger accounts. The above quarterly budgetary  
25 reports and quarterly trial balances shall be prepared in accordance  
26 with applicable accounting principles incorporated in the uniform system  
27 of accounts prescribed by the state comptroller. These reports shall be  
28 submitted to the city manager, the mayor, the city council, the state

1 director of the budget, the state comptroller, the chair of the assembly  
2 ways and means committee, and the chair of the senate finance committee.

3 § 10. Budget review by state comptroller. During the effective period  
4 of this act, the city manager shall submit the proposed budget for the  
5 next succeeding fiscal year to the state comptroller no later than thir-  
6 ty days before the date scheduled for the city council's vote on the  
7 adoption of the final budget or the last date on which the budget may be  
8 finally adopted, whichever is sooner. The state comptroller shall exam-  
9 ine such proposed budget and make such recommendations as deemed appro-  
10 priate thereon to the city prior to the adoption of the budget, but no  
11 later than ten days before the date scheduled for the city council's  
12 vote on the adoption of the final budget or the last date on which the  
13 budget must be adopted, whichever is sooner. Such recommendations shall  
14 be made after examination into the estimates of revenues and expendi-  
15 tures of the city. The city council, no later than five days prior to  
16 the adoption of the budget, shall review any such recommendations and  
17 make adjustments to the proposed budget consistent with any recommenda-  
18 tions made by the state comptroller.

19 § 11. Multiyear financial plans. During the effective period of this  
20 act, the city manager shall prepare, along with the proposed budget for  
21 the next succeeding fiscal year, a three-year financial plan covering  
22 the next succeeding fiscal year and the two fiscal years thereafter. The  
23 financial plan shall, at a minimum, contain projected employment levels,  
24 projected annual expenditures for personal service, fringe benefits,  
25 non-personal services and debt service; appropriate reserve fund  
26 amounts; estimated annual revenues including projection of property tax  
27 rates, the value of the taxable real property and resulting tax levy,  
28 annual growth in sales tax and non-property tax revenues; and the

1 proposed use of one-time revenue sources. The financial plan shall also  
2 identify actions necessary to achieve and maintain long-term fiscal  
3 stability, including, but not limited to, improved management practices,  
4 initiatives to minimize or reduce operating expenses, and potential  
5 shared services agreements with other municipalities. Within thirty days  
6 following the adoption by the city council of the budget for the next  
7 succeeding fiscal year and upon the completion of each quarterly budget  
8 report pursuant to section nine of this act, the city manager shall  
9 update the financial plan consistent with such adopted budget or such  
10 quarterly budget report. Copies of the financial plan and any update  
11 shall be provided to the city comptroller, the mayor, the city council,  
12 the state director of the budget, the state comptroller, the chair of  
13 the assembly ways and means committee, and the chair of the senate  
14 finance committee.

15 § 12. State comptroller to comment on further debt issuance. During  
16 the effective period of this act, the city comptroller shall notify the  
17 state comptroller at least fifteen days prior to the issuance of any  
18 bonds or notes or entering into any installment purchase contract, and  
19 the state comptroller may review and make recommendations regarding the  
20 affordability to the city of any such proposed issuance or contract.

21 § 13. Private sale of bonds authorized. To facilitate the marketing of  
22 (a) deficit bonds, (b) any bonds issued to refund such deficit bonds,  
23 and (c) any other bonds to be issued on or before December 31, 2012, the  
24 city may, notwithstanding any limitation on the private sales of bonds  
25 provided by law and subject to the approval of the state comptroller of  
26 the terms and conditions of such sales:

27 (1) arrange for the underwriting of such bonds at private sale through  
28 negotiated fees or by sale of such bonds to an underwriter; or

1 (2) arrange for the private sale of such bonds through negotiated  
2 agreement, with compensation for such sales to be provided by negotiated  
3 agreement and/or negotiated fee, if required.

4 The cost of such underwriting or private placement shall be deemed to  
5 be a preliminary cost for purposes of section 11.00 of the local finance  
6 law.

7 § 14. Exceptions to the local finance law. Except as provided in this  
8 act, all proceedings in connection with the issuance of such deficit  
9 bonds or deficit notes shall be had and taken in accordance with the  
10 provisions of the local finance law, provided, however, that any resol-  
11 ution or resolutions authorizing the issuance of such bonds or bond  
12 anticipation notes shall not be subject to (a) any mandatory or permis-  
13 sive referendum, (b) the provisions of section 107.00 of the local  
14 finance law with respect to any requirements for a down payment and (c)  
15 the provisions of section 10.10 of the local finance law.

16 § 15. Special debt service fund. (a) Upon the issuance of any deficit  
17 bonds or deficit notes, the city council shall establish and thereafter  
18 maintain a special debt service fund with the state comptroller for the  
19 purpose of paying the special debt service due or becoming due in subse-  
20 quent fiscal years. Such special debt service fund shall be discontinued  
21 upon the expiration of the effectiveness of this act, and any balance  
22 remaining in the special debt service fund at that time shall be paid by  
23 the state comptroller to the city comptroller for use by the city in the  
24 manner provided by law.

25 (b) The state comptroller shall deposit and pay into the special debt  
26 service fund any portion of state aid as the state comptroller deter-  
27 mines necessary to ensure sufficient moneys are available to make sched-  
28 uled special debt service payments from the special debt service fund



1 over the succeeding twelve month period taking account of the city's  
2 receipt of city taxes and state aid during such twelve month period and  
3 the availability of other amounts appropriated or set aside by the city  
4 to make such payments. Thereafter, the state comptroller shall, as soon  
5 as practicable, pay over the remainder of any such state aid to the city  
6 comptroller for use by the city in the manner provided by law.

7 (c) Not later than the first day of each fiscal year beginning after  
8 issuance of any deficit bonds or deficit notes, the city comptroller  
9 shall certify to the state comptroller the percentage obtained by divid-  
10 ing the balance obtained by subtracting the amount of the appropriation  
11 for such year for a reserve for uncollected taxes from the total amount  
12 of city taxes levied and assessed for such year, into the total appro-  
13 priation in the budget of such year for special debt service, and the  
14 percentage so certified shall constitute the debt service percentage for  
15 such fiscal year. Immediately upon receipt of any payment during such  
16 fiscal year of or on account of any city taxes, the city, its collecting  
17 officer and any agent receiving the same shall remit such payment to the  
18 state comptroller. Of each sum so received, the state comptroller shall  
19 deposit and pay into the special debt service fund the portion thereof  
20 equal to the debt service percentage of the total sum, and shall deposit  
21 and pay into the fund such additional amounts as the state comptroller  
22 determines necessary to ensure sufficient moneys are available to make  
23 scheduled special debt service payments from the special debt service  
24 fund over the succeeding twelve month period taking account of the  
25 timing of the city's receipt of city taxes and state aid during such  
26 twelve month period and the availability of other amounts appropriated  
27 or set aside by the city to make such payments. Thereafter, the state  
28 comptroller shall, as soon as practicable, pay over the remainder of

1 such sum to the city comptroller for use by the city in the manner  
2 provided by law.

3 (d) The moneys in the special debt service fund shall be invested in  
4 the manner provided by section 11 of the general municipal law,  
5 provided, however, that the investments shall be made for and on behalf  
6 of the city by the state comptroller upon instructions from the chief  
7 fiscal officer of the city which shall be consistent with the city's  
8 investment policy adopted pursuant to section 39 of the general municipi-  
9 pal law.

10 (e) The state comptroller shall from time to time during each fiscal  
11 year withdraw from the special debt service fund all amounts required  
12 for the payment as the same becomes due of all special debt service of  
13 such fiscal year and cause the amounts so withdrawn to be applied to  
14 such payments as and when due.

15 (f) The special debt service fund and all monies or securities therein  
16 or payable thereto in accordance with this section is hereby declared to  
17 be city property devoted to essential governmental purposes and accord-  
18 ingly, shall not be applied to any purpose other than as provided herein  
19 and shall not be subject to any order, judgment, lien, execution,  
20 attachment, setoff or counterclaim by any creditor of the city other  
21 than a creditor for whose benefit such fund is established and main-  
22 tained and entitled thereto under and pursuant to this act.

23 § 16. Agreement with the state. (a) The state does hereby pledge to  
24 and agree with the holders of any bonds, notes or other obligations  
25 issued by the city during the effective period of this act and secured  
26 by such a pledge that the state will not limit, alter or impair the  
27 rights hereby vested in the city to fulfill the terms of any agreements  
28 made with such holders pursuant to this act, or in any way impair the

1 rights and remedies of such holders or the security for such bonds,  
2 notes or other obligations until such bonds, notes or other obligations  
3 together with the interest thereon and all costs and expenses in  
4 connection with any action or proceeding by or on behalf of such hold-  
5 ers, are fully paid and discharged. The city is authorized to include  
6 this pledge and agreement of the state in any agreement with the holders  
7 of such bonds, notes or other obligations. Nothing contained in this act  
8 shall be deemed to (i) obligate the state to make any payments or impose  
9 any taxes to satisfy the debt service obligations of the city, (ii)  
10 restrict any right of the state to amend, modify, repeal or otherwise  
11 alter (A) section 54 of the state finance law or any other provision  
12 relating to state aid, or (B) statutes imposing or relating to taxes or  
13 fees, or appropriations relating thereto, or (iii) create a debt of the  
14 state within the meaning of any constitutional or statutory provisions.  
15 The city shall not include in any resolution, contract or agreement with  
16 holders of such bonds, notes or other obligations any provision which  
17 provides that an event of default occurs as a result of the state exer-  
18 cising its rights described in paragraph (ii) of this subdivision.

19 (b) Any provision with respect to state aid shall be deemed executory  
20 only to the extent of moneys available, and no liability shall be  
21 incurred by the state beyond the moneys available for that purpose, and  
22 any such payment by the state comptroller of state aid shall be subject  
23 to annual appropriation of state aid by the state legislature.

24 § 17. Rights of the state comptroller and bondholders. (a) In the  
25 event that the city shall fail to comply with any provision of this act,  
26 and such non-compliance shall continue for a period of 30 days, (1) the  
27 state comptroller acting alone, or (2) a duly appointed representative  
28 of the holders of at least 25 per centum in aggregate principal amount

1 of (i) any series of deficit bonds or deficit notes, (ii) any series of  
2 bonds issued to refund such deficit bonds or deficit notes, or (iii) any  
3 other series of notes or bonds issued by the city during the effective  
4 period of this act, by instrument or instruments filed in the office of  
5 the clerk of Orange county and proved or acknowledged in the same manner  
6 as a deed to be recorded, may bring an action or commence a proceeding  
7 in accordance with the civil practice law and rules to (A) require the  
8 city to carry out any of its obligations under this act or (B) enjoin  
9 any acts or things which may be unlawful or in violation of the obli-  
10 gations imposed on the city under this act. In addition, the duly  
11 appointed representative of the bondholders of any such series of notes  
12 or bonds may bring an action or commence a proceeding in accordance with  
13 the civil practice law and rules to enforce the rights of the holders of  
14 such series of notes or bonds.

15 (b) The supreme court in the county of Orange shall have jurisdiction  
16 of any action or proceeding by the state comptroller or the represen-  
17 tative of such bondholders.

18 § 18. Severability clause. If any clause, sentence, paragraph, section  
19 or part of this title shall be adjudged by any court of competent juris-  
20 diction to be invalid, such judgment shall not affect, impair or invali-  
21 date the remainder thereof, but shall be confined in its operation to  
22 the clause, sentence, paragraph, section or part involved in the contro-  
23 versy in which such judgment shall have been rendered. The provisions of  
24 this act shall be liberally construed to assist the effectuation of the  
25 public purposes furthered hereby.

26 § 19. This act shall take effect immediately; and shall remain in full  
27 force and effect until the fifteenth anniversary of the date of first  
28 issuance of deficit bonds or deficit notes pursuant to this act, when

1 upon such date the provisions of this act shall be deemed repealed; and  
2 provided, however, that the state comptroller shall notify the legisla-  
3 tive bill drafting commission upon the occurrence of this act in order  
4 that the commission may maintain an accurate and timely effective data  
5 base of the official text of the laws of the state of New York in furth-  
6 erance of effectuating the provisions of section 44 of the legislative  
7 law and section 70-b of the public officers law.